

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DEXTER STURGEON, JR.,
TDCJ No. 1650438,

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Petitioner,

V.

No. 3:22-CV-2689-D

DIRECTOR, TDCJ-CID,

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Respondent.

ORDER

The United States Magistrate Judge made findings, conclusions, and a recommendation (“FCR”) in this case on December 2, 2022. On December 6, 2022 petitioner filed a document that the court will construe as objections to the FCR. And on December 30, 2022 he filed a letter that he maintains contains evidence of his innocence, which the court will also treat as objections. The undersigned district judge has reviewed *de novo* those portions of the FCR to which objection were made and has reviewed the remainder for plain error. Finding no error, the court adopts the findings, conclusions, and recommendation of the United States Magistrate Judge.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge’s findings, conclusions,

and recommendation filed in this case in support of its finding that petitioner has failed to show that reasonable jurists would find “it debatable whether the petition states a valid claim of the denial of a constitutional right” or “debatable whether [this Court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

But if petitioner elects to file a notice of appeal, he must either pay the \$505 appellate filing fee or move for leave to appeal *in forma pauperis*.

SO ORDERED.

January 30, 2023.



SIDNEYA. FITZWATER
SENIOR JUDGE